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CHANDIGARH ADMINISTRATION  
TRANSPORT DEPARTMENT

## Notification

The 9th November, 2022

**No. 1/5/36-H-III(7)-2022/16623.**—In exercise of the powers conferred by sub-section (1) of Section 67 of The Motor Vehicles Act, 1988 and in partial modification of the Chandigarh Administration, Transport Department Notification No. 1/5/36-H-III(7)-2020/906, dated 15.01.2020, the Administrator, Union Territory, Chandigarh is pleased to substitute the Clause 13 (iii) and 13 (iv) of *ibid* notification dated 15.01.2020 as under with immediate effect :—

Sr. No.	Category of Passengers	Nature of buses	Area	Facility
13 (iii)	Deaf and Dumb HIV-Aids and disabled persons	AC/Non AC bus	Tri-City (M.C. Limit)	Free travel facility (having an ID card issued by the Competent Authority U.T., Chandigarh or UDID Card holders).
13 (iv)	Mentally retarded children, blind persons, Thallasemic Children (along with one attendant)	AC/Non AC bus	Tri-City (M.C. Limit)	Free travel facility (having an ID card issued by the Competent Authority U.T., Chandigarh or UDID Card holders).

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Jalinder Kumar  
Date: 2022.11.14  
16:07:46 IST  
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NITIN KUMAR YADAV, IAS,  
Secretary Transport,  
Chandigarh Administration.

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CHANDIGARH ADMINISTRATION  
LABOUR DEPARTMENT

**Notification**

The 27th October, 2022

**No. 13/1/9355-HII(2)-2022/15942.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR (PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 112/2016 dated 31.08.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PUNJAB LAND DEVELOPMENT AND RECLAMATION CORPORATION WORKERS UNION (LUDHIANA UNIT) THROUGH ITS PRESIDENT SHRI ROSHAN LAL S/O AMIN CHAND, WARD NO.3, H. NO.680, BHADDI ROAD BALACHAUR, DISTRICT SBS NAGAR, PUNJAB (Worker's Union)

AND

1. FINANCIAL COMMISSIONER (DEVELOPMENT), PUNJAB, DEPARTMENT OF AGRICULTURE, PUNJAB, ROOM NO. 219, 2<sup>nd</sup> FLOOR, PUNJAB CIVIL SECTT.-2, CHANDIGARH.
2. DIRECTOR, DEPARTMENT OF AGRICULTURE, KHETI BHAWAN, PHASE VI SAS NAGAR, NEAR DARA STUDIO.
3. PUNJAB LAND DEVELOPMENT AND RECLAMATION CORPORATION LIMITED, KHETI BHAWAN, PHASE-VI, IVTH FLOOR, SAS NAGAR, NEAR DARA STUDIO THROUGH ITS MANAGING DIRECTOR.
4. PUNJAB STATE WAREHOUSING CORPORATION LIMITED, SCO NO.74-75, BANK SQUARE, SECTOR 17-B, CHANDIGARH THROUGH ITS MANAGING DIRECTOR.
5. PUNJAB AGRO INDUSTRIES CORPORATION LIMITED, CHANDIGARH 2-A, SECTOR 28-A, MADHYA MARG, CHANDIGARH 160002 THROUGH ITS MANAGING DIRECTOR. (Management)

referred to the said court by the Chandigarh Administration bearing Endorsement No. 13/1/9355-HII(2)-2016/30478, dated 08.11.2016.

**AWARD**

1. *Vide* Endorsement No.13/1/9355-HII(2)-2016/30478 Dated 08.11.2016 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the demand notice dated 07.12.2015 raised by Shri Roshan Lal, President of PLDRC Union (*hereinafter in short referred "workers' union"*) upon the Financial Commissioner (Development) Punjab & Others (*hereinafter in short referred "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*hereinafter in short referred "ID Act"*) in following words :—

*"Whether the demand raised in the demand notice dated 07.12.2015 by Sh. Roshan Lal, President of (PLDRC), Union AND (1) Financial Commissioner (Development), Punjab, Department of Agriculture, Punjab, Room No.219, 2nd Floor, Punjab Civil Sectt.-2, Chandigarh (2) The Director, Department of Agriculture, Kheta Bhawan, Phase-VI, SAS Nagar, Near Dara Studio (3) Punjab Land Development and Reclamation Corporation*

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*Limited, (PLDRC), Kheti Bhawan, Phase VI, 4th Floor, SAS Nagar, Near Dara Studio (4) Punjab State Warehousing Corporation Limited, SCO No.74-75, Bank Square, Sector 17-B, Chandigarh (5) Punjab Agro Industries Corporation Limited (PAIC), Chandigarh 2-A, Sector 28-A, Madhya Marg, Chandigarh are genuine and justified. If so, to what effect and to what relief the Union / Workers are entitled to, if any ?"*

2. Case of the workers' union in brief is that the present claim is being filed by Punjab Land Development and Reclamation Corporation Workers Union (Ludhiana Unit) through its President Shri Roshan Lal on behalf of 91 employees, against the retrenchment order dated 28.11.2003 passed in pursuance of the order dated 29.10.2003 under Section 25-O of ID Act and order of termination dated 19.11.2004 and the dispute is *inter alia* regarding retrenchment and termination of all workmen. There were 199 workmen of the Punjab Land Development and Reclamation Corporation Limited (hereinafter in short referred as 'PLDRC'). The Board of Directors of PLDRC vide meeting dated 25.10.2002 decided to close down the corporation. The order dated 25.10.2002 of the Board of Director of PLDRC, regarding closure of PLDRC was challenged in Civil Writ Petition No.19076 of 2002 titled as Kaka Singh & Others Versus State of Punjab. The Hon'ble High Court vide order dated 07.08.2003 gave permission to reconsider the decision taken on the closure of PLDRC and directed to take decision on the application moved by PLDRC under Section 25-O of the ID Act and all affected parties be heard before passing the order. Accordingly, PLDRC moved fresh application under Section 25-O of the ID Act and the Secretary, Labour and Employment of Government of Punjab, U.T, Chandigarh vide order dated 29.10.2003 gave approval to closure of PLDRC under Section 25-O of the ID Act and allowed the application. As per this order workmen are to be paid all the dues on or before 31.05.2004. The workmen were terminated vide order dated 28.11.2003. Most of the workers were adjusted and 91 workmen who were not adjusted. The workers' union filed review application against the order passed under Section 25-O(5) of the ID Act on 13.12.2003. During the pendency of this review application filed by employee union, State of Punjab took a decision that PLDRC would be amalgamated with Punjab Agro Industries Corporation Limited (hereinafter in short referred as 'PAIC') vide letter dated 06.08.2004 vide memo No. 30/3/01-Agri-2(8)/3901 issued by Department of Agriculture, Government of Punjab. In view of this decision, State of Punjab to absorb all the workers of PLDRC subject to condition that they will not claim any salary or benefit of retrenched services and same shall be treated as Leave of kind due. The payment of previous dues would be finalized by PAIC and will be paid as per the financial position of PAIC or in installments and the workmen will withdraw all cases pertaining to his employment; and they would abide by the conditions settled, rules and regulations on which the merger of PLDRC and PAIC took place. The workmen submitted the abovementioned undertaking and joined the PAIC vide order dated 15.09.2004. On the basis of above order of amalgamation, review application was disposed of, as the same has become infructuous, vide order dated 16.09.2004. Thereafter, AG office to Govt. vide letter dated 11.10.2004 sent the information that no retrenchment now exists and writ petition has become infructuous. Just after few days Government withdraw the scheme of amalgamation of PLDRC and PAIC vide memo No.20/3/01-Agri-II(8)/4608 dated 19.11.2004. The order of amalgamation was withdrawn on 19.11.2004 mischievously by the Department of Agriculture, Punjab after the disposal of the review application and all workmen were terminated from employment by PAIC vide order dated 19.11.2004 and services of the workmen were disposed of on same very day. Various writ petitions were filed before the Hon'ble High Court, CWP No. 19148 of 2005 Roshan Lal and Others Versus State of Punjab and Others challenging the order of illegal retrenchment of the workmen and closure of PLDRC and same was finally decided on 27.07.2014, CWP No. 19129 of 2003 Karam Chand and others Versus State of Punjab and Others, and CWP No. 18527 of 2003 titled as Balbir Singh & Others Versus State of Punjab and Others, which were disposed off by the Hon'ble High Court vide order dated 29.09.2014 and 04.09.2014 respectively and liberty was granted to the workmen to raise the industrial dispute and Hon'ble High Court vide order dated 29.09.2014 observed that Industrial Dispute would not be objected on the ground of delay. The workers' union served a demand notice under Section 2(k) of ID Act for



holding conciliation proceedings and on failure of conciliation proceedings on 13.06.2016 the matter has been referred before this Hon'ble Labour Court for adjudication and thus the present claim is being filed by the workers' union. Order dated 28.11.2003 for retrenchment of the workmen is illegal inter alia due to non compliance of mandatory provisions of the ID Act including under Section 25-N, permission for closure of PLDRC was only granted with effect from 30.11.2003 as well as no notice was served on the workmen. As per order dated 29.10.2003, the salaries and benefits on closure shall be paid to the workmen on or before 31.05.2004, but no such emoluments were paid. The second application under Section 25-O filed on 01.09.2003 was not maintainable as it was filed within one year period from the first such application filed on 03.12.2002. Orders have been passed totally in violation of the provisions of Section 25-O of the ID Act and no ground has been made out for retrenchment of workmen nor statutory requirements as required under Section 25-N of ID Act were fulfilled. The order of retrenchment was never served upon the workmen by the PLDRC. Order dated 28.11.2003 is not sustainable in the eyes of law as permission under Section 25-O of the ID Act was granted *vide* order dated 29.10.2003 was conditional that salary and benefits on closure shall be paid to the workmen on or before 31.05.2004 but the same were never paid in time but paid much later, same were accepted under protest. Order dated 29.10.2003 on the basis of which permission for closure was being granted is not sustainable as, as per the provisions payment of benefits on closure to workmen are a pre-requisite to the order of closure taking affect, so order of closure is illegal and unlawful. The amalgamation order of PLDRC with PAIC was issued *vide* letter dated 06.08.2004 *vide* Memo No. 30/3/01-Agriculture 2(8)/3091 by Department of Agriculture, Govt. of Punjab superseded the order of closure of PLDRC and that the order dated 29.10.2003 was therefore set aside. Upon the withdrawal of scheme of amalgamation of PLDRC and PAIC *vide* memo No. 20/3/01-Agri-II(8)/4608 dated 19.11.2004, it cannot be said to result in the status of PLDRC as being closed from the earlier date of closure and only can be considered to the closed on or after 19.11.2004. Such closure being after a period of one year from order granting of permission for closure is illegal in terms of provisions of Section 25-O(4) the ID Act. The withdrawal of amalgamation on 19.11.2004 by the Dept. of Agriculture Punjab after the disposal of the review application is mischievous, malafie and untenable in the eyes of law. Earlier application moved by PLDRC for closure under Section 25-O of ID Act was moved on 03.12.2002 was dismissed on 29.01.2003. Second application for closure was moved on 01.09.2003, same was illegally allowed on 29.10.2003. It is settled law that no fresh application can be moved for permission to closure in a period of one year from dismissal of earlier application. So order passed by Secretary Govt. of Punjab Department of Labour and Employment and as such it is not sustainable. Since registered office of PLDRC is in Chandigarh so as per the provisions of Section 25-O of the I.D. Act, the permission has to be taken from appropriate Government, which, in the case, is Labour Secretary Chandigarh. Permission granted by Secretary to Government of Punjab, Department of Labour and Employment is illegal. Order passed by PLDRC and Secretary Labour Department Punjab are illegal because at one stage in view of the order of amalgamation of PLDRC with PAIC on 06.08.2004, so order of permission for closure dated 29.10.2003 loses its significance and on that basis no workmen can be retrenched. The termination order dated 19.11.2004 by PAIC is illegal for want of compliance with the provisions of the ID Act. In fact, even after the withdrawal of the order of amalgamation and closure of PLDRC, PAIC is continuing to utilize the properties of PLDRC and reap benefits from them. The workmen were taken into service by PAIC keeping their period of service intact and PAIC was also liable to pay for the salary of the workmen. The termination of the services of the workmen by PAIC on 19.11.2004 without any enquiry, show cause notice or opportunity of hearing is also not sustainable in the eyes of law. The provisions of the ID Act have not been adhered to, both with respect to closure as well as the retrenchment of the workmen. The workmen are entitled to all benefits as they were not retrenched as per procedure and law laid down by the ID Act. The workmen were entitled to benefits, as contemplated in Section 25-O (6) of the ID Act, as the closure of PLDRC was illegal and unlawful. Orders of retrenchment dated 28.11.2003 of the workmen are further not sustainable as a categorical statement was made in the Review Petition that PLDRC is being amalgamated with PAIC and all the employees

of PLDRC are being absorbed by PAIC and in such reference, a letter was also issued by the Department of Agriculture, Government of Punjab vide Memo No. 2/2/03-Agri.II(8)/4120 dated 11.10.2004 to the office of the Advocate General, Punjab that in view of the amalgamation no retrenchment exists. The sequence of events, as stated above, would show that a categorical statement was given by the management of PLDRC in the Review Application filed by the workers' union and it was only on the basis of such a categorical statement was the said review application rendered infructuous. If the management of PLDRC is allowed to take advantage of such a statement in the facts and circumstances of the present case it would amount to depriving the workmen of their statutory rights and a device to subvert the process of law. The once PLDRC and PAIC were amalgamated and the workmen of the union were amalgamated and the workmen of the union were absorbed into PAIC on the basis of amalgamation order, then PAIC having made a agreement to absorb the workmen of the workers' union, they are promissory estopped from terminating the services of the workmen become the employee of PAIC, so PAIC have to follow all statutory procedures under the ID Act, 1947 before terminating the services of the workmen. In the present case, no procedure has been followed, therefore the order of termination dated 19.11.2004 is liable to be set aside as the same has been passed without giving any show cause notice, opportunity of hearing, without payment of any compensation and other mandatory procedures not followed. Some of the workers were under deputation to the Punjab State warehousing Corporation (hereinafter in short referred 'PSWC') and they were terminated from services *vide* order dated 04.12.2003 in an illegal manner, without following the procedure as prescribed under the ID Act, 1947. The methodology adopted by the management of PLDRC, PAIC, PSWC and the State of Punjab is *mala fide* and only to avoid liability. As per the scheme of amalgamation, property of PLDRC was to be utilized by PAIC. PAIC had taken over the properties of PLDRC and is deriving benefits from the same but has shunted the 91 workers in spite of order of amalgamation. The termination order dated 19.11.2004 passed by PAIC is untenable in the eyes of law as it is violation of provisions of I.D. Act, as no compliance has been made before passing the order of termination. Order of termination dated 19.11.2004 has been passed without any enquiry or without show cause notice, without affording opportunity of hearing, so same is not sustainable in the eyes of law. The mischievous, malafide and illegal acts of the management of PLDRC, PSWC, PAIC and the Dept. of Agriculture to avoid their liability has led to depriving the workmen on their statutory rights. Other similar situated employees who are working in PLDRC were adjusted in various departments of Punjab Government on pick and choose basis and those workmen have been given benefit of entire service period rendered by them and retiral benefits have been released to them. The present workmen have been treated in an arbitrary manner and have been removed without any fault of them. Many other employees of PLDRC who were also declared surplus and were juniors to the present bunch of workmen had been adjusted in other departments of the Punjab Government on a pick and choose policy. This Court has jurisdiction to adjudicate the present claim petition. The workmen are unemployed from the date of their termination. The workmen have filed claim under Section 2-A(2) of the ID Act through its union which is pending before this Hon'ble Court. The highhandedness with which the present workmen have been dealt with has adversely affected the families of these workmen. Termination of workmen is unjustified, illegal in the eyes of law and is against the provisions of natural justice being violated by the respondents. Prayer is made that present claim may be allowed and retrenchment order dated 28.11.2003 passed by Punjab Land Development and Reclamation Corporation Limited may be set aside the closure of Punjab Land Development and Reclamation Corporation Limited vide order dated 29.10.2003 may be declared as illegal; order dated 04.12.2003 passed by Punjab State Warehousing Corporation Limited whereby the workmen were relieved from the services and termination order dated 19.11.2004 passed by Punjab Agro Industries Corporation Limited be set aside and the workmen may be allowed to join their duty and further direct them to give back full wages along with interest as well as all consequential benefits.

3. On notice, management No.3 appeared through its authorized representative Shri Y. P. Singla and contested the statement of claim by filing written statement on 31.01.2017, wherein preliminary objections are

raised on the ground that the proceedings in the present case are liable to be stayed as the matter in issue is also directly and substantial in issue in the previously instituted claim petition bearing No.IDR/51/15 between the same parties under the same title and the same pending in this Court. This Court no territorial jurisdiction to entertain and try the present claim petition as all the members of petitioner-union were working at Ludhiana at the relevant time. Only the Labour Court at Ludhiana is competent to adjudicate the matter in the dispute. It is only due to this reason that this very petitioner-union has previously approached the Labour Officer-cum-Conciliation Officer, Ludhiana by serving requisite demand notice under Section 2(k) of the ID Act with regard to same very relief as is being claimed in the present claim petition, where the conciliation proceedings have admittedly failed on 22.01.2015 and after such failure, the petitioner/PLDRC workers' union ought to have approached the Labour Court Ludhiana and not to this Court at Chandigarh. The present claim petition is liable to be dismissed on the ground of delay and laches, as the retrenchment order dated 28.03.2003 as well relieving order dated 04.12.2003 are being challenged for the first time after the expiry of 12 years, whereas both these orders were not challenged in CWP No. 19148 of 2005 and the Hon'ble High Court has given liberty only to the 91 individual petitioners of CWP No.19148 of 2005 *vide* order dated 21.07.2014 to raise industrial dispute without any embargo of delay with regard to the closer order dated 29.10.2003 and the termination order dated 19.11.2004 challenged by them in the writ petition. Hence, under the garb of order dated 21.07.2014 passed by the Hon'ble High Court the petitioner union cannot be allowed to enlarge the scope of their challenge by also challenging the retrenchment order dated 28.11.2003 and relieving order dated 04.12.2003 as an afterthought so as to bring the present claim petition within period of limitation. The petitioner union has no cause of action and locus standi to file the present claim petition and it is not maintainable in the eyes of law and CWP No.19148 of 2005 titled as Roshan Lal & Others Versus State of Punjab & Others was filed by 91 employees / petitioners in their individual capacity and only these 91 employees / petitioners and not the petitioner union were given liberty to raise the industrial dispute. The petitioner union is neither registered union under the Trade Union Act, 1926 nor any legal and valid resolution has been passed by these 91 employees in favour of Shri Roshan Lal to institute the present claim on their behalf. No cause of action has arisen to these 91 terminated employees against the answering management No.3 and their estopped by their own act and conduct to challenge the closure order dated 29.10.2003 and retrenchment order dated 28.11.2003 as both these orders have become final on accepting the retrenchment compensation as well as gratuity, leave encashment and arrears of salary up to 30.11.2003 on account of closure of PLRDC without any protest and thereafter, 91 employees got the fresh appointment on contract basis with PAIC with their own free will and desire by giving their self-serving undertaking. The present claim petition is liable to be dismissed on the ground of mis-joinder of cause of action and mis-joinder and non-joinder of necessary parties. The closure order dated 29.10.2003, the retrenchment order dated 28.11.2003, termination order dated 19.11.2004 and further relieving / termination order dated 04.12.2003 are different cause of action which have been passed by the different authorities and these orders ought to have been challenged in separate claim petitions against the concerned respondents and not in the single composite claim petition. Similarly, the closure order dated 29.10.2003 passed by the appropriate Government i.e. principal Secretary to Government of Punjab, Department of Labour & Employment, Chandigarh but it has not been arrayed as party / respondent in the present claim petition. The petitioner-union has not approached this Court with clean hands and concealed the material facts without first placing on record the retrenchment order dated 28.11.2003 and relieving / termination order dated 04.12.2003, the same could not be legally challenged in the present proceedings.

4. On merits, it is stated that that the facts need no reply being matter of record to the extent of passing of resolution dated 25.10.2002 by the Board of Directors (BOD) of PLDRC, challenging the said resolution in CWP No.19076 of 2002 and passing of interim orders dated 04.03.2002 and 07.08.2003 by the Hon'ble High Court, passing of retrenchment order dated 28.11.2003 of 199 workmen of PLRDC by the answering management No.3 in pursuance of order dated 29.10.2003 passed by the appropriate Government granting permission for closure of PLRDC, passing of termination order dated 19.11.2004 by the management



No. 5 and passing of relieving / termination order dated 04.12.2003 by the management No.4. The petitioner union has no cause of action and locus standi as the retrenchment order dated 28.03.2003 as well relieving order dated 04.12.2003 are being challenged for the first time after the expiry of 12 years, whereas both these orders were not challenged in CWP No.19148 of 2005 and the Hon'ble High Court has given liberty only to the 91 individual petitioners of CWP No.19148 of 2005 *vide* order dated 21.07.2014 to raise industrial dispute without any embargo of delay with regard to the closer order dated 29.10.2003 and the termination order dated 19.11.2004 challenged by them in the writ petition. It is denied as wrong that *vide* order dated 07.08.2003 passed in CWP No.19076 of 2002 - Kaka Singh etc. Versus State of Punjab etc., the Hon'ble High Court has ever given permission to the answering management to reconsider the decision taken on closure of PLDRC. The Hon'ble High Court *vide* order dated 07.08.2003 directed the respondents to take a decision of the application under Section 25-O of the ID Act and the petitioners of the said writ petition (Kaka Singh etc) were given liberty to raise objection at the time of disposal of the same. It is wrong to allege on the part of petitioner-union that most of the workers were adjusted / absorbed in PAIC as the letter dated 15.09.2004 *vide* which the retrenched employees were given contractual offer for six months only on consolidated salary by PAIC (management No. 5) did not mention that the retrenched employees were absorbed with PAIC. The services of these employees were later on terminated by the PAIC *vide* order dated 19.11.2004 as the State Government *vide* memo dated 19.11.2004 had decided to withdraw the amalgamation of PLRDC with PAIC with immediate effect. It is a matter of record to the extent of filing of review application on 13.12.2003 against the order dated 29.10.2003 passed under Section 25-O of the ID Act and the disposal of review application *vide* order dated 16.09.2004, the decision taken by the Department of Agriculture, Government of Punjab *vide* its letter dated 06.08.2004 deciding to amalgamate PLRDC with PAIC and informing about the said decision to the office of Advocate General, Punjab *vide* its letter dated 11.10.2004, making it clear therein that final amalgamation take place after completion of necessary legal formalities. Order dated 29.10.2003 was final so far as the closure of PLDRC and retrenchment of all the employees w.e.f. 13.11.2003. In pursuance of aforesaid order, PLDRC retrenched all its employees and started making sincere efforts for payment of retrenchment benefits as per the directions of the competent authority contained in the order dated 29.10.2003. The matter was taken up by the Administrative Department with the Finance Department for release of the funds as PLRDC has no funds of its own. Before the expiry of cut off date given by the competent authority to make the payment of the employees on account of retrenchment benefit etc., the employees started making desperate representations to various authorities i.e. Chief Secretary, Agriculture Minister, Chief Minister Punjab requesting therein that they were not interested in the retrenchment benefits and instead they should be adjusted in some other Boards / Corporations of the Government in view of Government policy decision dated 13.03.1995 reiterated on 17.05.2002. The Government, however, took a sympathetic view of the situation and in order to accommodate these employees, the proposed to merge the assets and liabilities of the PLDRC including the employees in Punjab Agro Industries Corporation Limited (PAIC). Pending the final amalgamation with all its assets and liabilities including the employees, who were retrenched on 30.11.2003 in accordance with the provisions of law, the employees on their own independent will, entered into an agreement with the management of PAIC and Punjab Agro Food Grain Corporation Limited (PAFC) a subsidiary of PAIC and undertook not to claim the arrears of unpaid salary in one go but in a phase manner as and when the money was available with the PAIC. The employees submitted their individual affidavits in this behalf. Keeping in view the affidavit of the employees with PAIC, the Punjab Government took a decision in principle to merge the PLDRC with PAIC *vide* its letter dated 06.08.2004 *vide* which the State Government asked both the corporations i.e. PLDRC and PAIC / PAFC to initiate all pre-requisite steps towards the amalgamation of PLDRC and PAIC. The decision for amalgamation of PLDRC in PAIC was taken in the light of following factors :—

- (a) the PAIC through its subsidiary PAFC was involved in the programme of contract farming. It was intended to bring about 1450 acres of land owned by PLDRC under cultivation of new high

value crops as the demonstration exercise for the farmers. It was also thought that subsequently the PAIC will take over the land now under the possession of Punjab Agriculture University and to set up agro processing there. The PAFC prepared a detailed project report as to how this land was to be brought under use and to generate sufficient profit to meet the expenditure which would be required to be incurred on account of taking over the PLDRC employees.

- (b) The PAFC will take over the implementation of the centrally sponsored scheme, namely reclamation of Alkaline Soils under which Gypsum is supplied to the farmers at subsidized rates to reclaim the degraded soils. It was sought that this activity will take care service of certain number of former PLDRC employees.
- (c) The employees made representations and also filed individual affidavit to PAIC / PAFC that they were not interested in getting retrenchment benefits and were keen to employee with PAFC, a subsidiary of PAIC

Before the legal formalities of the merger of the two corporations as required in letter dated 06.08.2004 were completed, the State Government decided to step up a new Greenfield Airport at Laddowal Farm of the PLDRC. Thus, the aforesaid land would not be available to the PAFC in the event of merger of the two companies. Not only this land, but other adjoin land will also be acquired for setting up the said airport. Thus, the very basis on which the entire exercise of amalgamation was conceived and suggested become doubtful and un-certain as the entire proposal was based on the availability of 1500 acres of land and revenue generated there from. In the absence of its availability the PAIC could not even prepare any basic scheme for amalgamation. The Finance Department *vide* its letter dated 24.09.2004 strongly objected to the decision of PAFC giving employment to the employees of PLDRC on contractual basis. It was observed that by giving employment to the employees of PLDRC will certainly create a strong precedent for other corporations which are underway for disinvestment / closure. The Financial Department directed the decision regarding amalgamation of two corporations must be reversed at the earliest. The PAIC further observed that for the last few years the State Government could not financially participate in the centrally sponsored scheme for the supply of Gypsum. Resultantly, the scheme was not implemented during the 1999-2003. In the year 2003-04, only ₹ 9 Lacs were released and spent out of the budgeted outlay of ₹1 crore. Thus, it emerged that the operation of the scheme is not certain. Thus, the Government decided to reverse the merger decision and accordingly order / letter dated 06.08.2004 was withdrawn *vide* letter dated 19.11.2004 and the services of these ex-employees who were appointed on 15.09.2004 on consolidated salary on contract basis only for six months by PAIC and never absorbed as is being alleged, were terminated *vide* order dated 19.11.2004 as the State Government *vide* Memo dated 19.11.2004 had decided to withdraw the amalgamation of PLDRC with PAIC with immediate effect. It is further stated that the liberty was granted by the Hon'ble High Court *vide* its order dated 21.07.2004, 04.09.2014 and 29.09.2014 respectively passed in CWP No.19148 of 2005, CWP No.18527 of 2003 and CWP No.19929 of 2003 to the writ petitioners of these writ petitions to raise industrial dispute without any embargo of delay with regard to the reliefs claimed therein and not with regard to any other / different relief which is now been claimed mischievously for the first time by the PLDRC workers' union under the garb of said orders. The order dated 04.09.2014 passed in CWP No.18527 of 2003, order dated 29.09.2014 passed in CWP No.19929 of 2003 has no relevancy in the present case as petitioners of both these writ petitions were not party in the present claim petition. The termination of services of the employees *vide* order dated 19.11.2004 has nothing to do with the utilization of property of PLDRC by PAIC as it was conscious decision of the Government to withdraw the amalgamation scheme of these two corporations and after such withdrawal, no option was left with the PAIC but to dispense with the services of these employees. It is well settled law that the employer has a right to close down its business if it is not financially viable. The so called absorption these ex-employees with PAIC / PAFC was subject to the final amalgamation of two corporations in accordance with law. Since the amalgamation of two corporations has not been finally approved



by the competent authority, these ex-employees has no legally enforceable right to maintain the claim petition. The retrenchment compensation has been paid to these ex-employees in accordance with the provisions of Section 25-O(8) of the ID Act. The Government had issued instructions *vide* No.2027/93-Agri.II(8)/2661 dated April 24, 1997 to the Director Agriculture, Chief Conservator of Soils, Punjab, Director Colonization, Punjab, Director Horticulture and Director Punjab State Seed Certification Authority regarding adjustment of surplus staff of PLDRC on the lines of the decision taken in meeting held on January 21, 1997. No decision could be legally taken to adjust the surplus staff of PLDRC in other Government Department in violation of policy instructions of Government dated 13.03.1995 and any decision taken in violation of express instructions cannot be set to be in accordance with the law and thus, cannot form precedent for future acts. After the issuance of the instructions dated 13.03.1995, not even a single employee retrenched from various public undertakings of the Government was absorbed in the State services as alleged. Further similar plea is taken as taken in the preliminary objections. Rest of the averments of statement of claim are denied as wrong and prayer is made that the claim petition may be dismissed with heavy cost being devoid of merits.

5. Management No.4 appeared through representative Shri Ajay Pal Singh and contested the statement of claim by filing written statement on 27.11.2017, wherein preliminary objections were taken on the ground that the workmen have not approached this Tribunal with clean hands and have concealed the material aspects of the case. The workman by no stretch of imagination can have an outstanding claim against the answering management. Shri Anaib Singh - Clerk, Shri Harinder Pal Singh - Senior Clerk, Shri Teja Singh - Junior Assistant, Shri Brij Lal - Senior Clerk, Shri Mahipal Singh - Junior Assistant were taken on deputation *vide* order dated 20.04.2001, 05.03.2001, 20.04.2001, 05.03.2001 and 20.04.2001 respectively. It was a condition therein that the said employees would be taken on deputation for one year from the date of joining, subject to any further extension being given. All these employees were relieved from their services on 04.12.2003 by operation of letter dated 28.11.2003 of PLDRC whereby it was categorically stated that all activities of PLDRC have been suspended and the said corporation was ordered to be closed down. As such, no action lies against the answering management.

6. Further on merits, it is stated that the answering management is not aware about the truthfulness of para No.1 to 22 of the statement of claim. The petitioners may be put to strict proof qua the same. It is further stated that some employee of PLDRC were taken on deputation in Punjab State Warehousing Corporation (PSWC) from 05.03.2001 initially for a period of one year and thereafter their period of deputation was extended from time to time. As per the instructions of PLDRC issued *vide* letter No.PLDRC.E.IV-03/5649 dated 28.11.2003, these employees were relieved from their services of the corporation on 30.11.2003. So, the PSWC has not retrenched the services of the employees at their own and the action was taken as per order / instructions of PLDRC. All the activities of PLDRC were suspended in November 1999 because the said corporation had failed to meet even its basic obligation of making payment of salaries to these employees. It become totally unviable and unprofitable entity. Having realize this and the fact that there were absolutely there was no chance of its revival, the BOD of said corporation in this 167th meeting held on 25.10.2002 decided to close down the corporation. Rest of the contents of the statement of claim are denied as wrong. Prayer is made that the petition may be dismissed.

7. Management No.5 appeared through representative Shri Karan Singla and contested the statement of claim by filing written statement on 31.10.2017 wherein preliminary objections are raised on the ground that the claimants have not appended the alleged impugned retrenchment order dated 28.11.2003, thus, the petition deserves dismissal on this short ground alone. There has been no violation of any of the provisions of the ID Act and specially Section 25-O of the ID Act is invoked in view of order dated 29.10.2003 and order dated 28.11.2003 passed by the answering management. The alleged impugned orders are fully legal and valid in the eyes of law. Since the amalgamation of management No.3 and 5 stood withdrawn by the Government of Punjab. Hence, the petitioners were not taken on the rolls of the answering management, consequently,

Section 25-O of the ID Act is not applicable. The instant case cannot be termed to be a case of retrenchment in view of the judgment passed by Hon'ble High Court of Bombay in case of Mackinnon Mackenzie Ltd. Versus G. S. Raj and others, 2006(4) BCR 625 wherein it is has been held that in case of closure, removal of employees cannot be termed as retrenchment. It has been further held by Hon'ble High Court of Allahabad in case of Upendra Kumar Versus State of U.P., 2003(8) SLR 696, in case of closure employees have no right to alternate employment. The further Hon'ble Supreme Court of India in case of HP Mineral and Industrial Development Corporation Employees Union Versus State of H.P., 1996(7) SCC 139 held that in case of closure Courts cannot force the Government to absorb the employees. Further on merits, it is stated that the impugned orders dated 28.11.2013 passed in view of order dated 29.10.2003 and the impugned order of termination dated 19.11.2004 are legal and valid. The joining of workman with the answering management has no relevance or finalization unless and until amalgamation proceedings of PLDRC and PAIC are finalized. Since the amalgamation proceedings are withdrawn by the Government of Punjab and the answering management had no role to play in the withdrawal of the amalgamation, hence, the alleged impugned dated 19.11.2004 passed by the answering management cannot be termed as illegal. Rest of the averments of statement of claim are replied in a formal manner except para 16 to 25 & 30 which are denied as wrong. Prayer is made that the petition needs to be dismissed in the interest of justice.

8. Notice issued to management No.1 for 04.01.2017 was received back executed through Shri Gurvinder Singh, Clerk, on 04.01.2017 memo of appearance on behalf of management No.1 was filed by representative Shri Ajay Pal Singh. Notice issued to management No.2 for 27.09.2017 under registered cover *vide* postal receipt dated 24.08.2017 was not received back undelivered, although the time period of 30 days elapsed from the issuance of RC. Thus, deem service of management No. 2 was affected. None appeared on behalf of management No.1 & 2 on 27.09.2017. Thus, *vide* order dated 27.09.2017 the management No.1 & 2 were proceeded against *ex parte*.

9. The workers' union filed rejoinder to the written statement of management No. 3 and separate rejoinder to the written statement of management No.5, wherein the contents of the written statement were denied as wrong except admitted facts of the statement of claim and the averments of the statement of claim were reiterated. On 27.11.2017 learned representative for the workers' union got recorded his statement to the effect that he does not want to file rejoinder to written statement of management No. 4.

10. From the pleadings of the parties, following issues were framed on 07.12.2018 :—

1. Whether the demand raised in the demand notice dated 07.12.2015 by the workers' union is genuine & justified, if so, to what effect and to what relief the workers' union / workmen are entitled to, if any ? OPW
2. Whether this Court has no territorial jurisdiction to entertain & try the present claim ? OPM-3
3. Whether the present claim is bad for mis-joinder & non-joinder of necessary parties ? OPM-3
4. Relief.

11. In evidence, the workers' union examined WW1 Roshan Lal - President, workers' union, who tendered his affidavit Exhibit 'WW1/A' along with document i.e. resolution Exhibit-WW1/X & Exhibit-WW1/1 and Exhibit WW-1/2, Original letter of joining dated 15.09.2004 of Roshan Lal as Exhibit WW1/3, Certified copy of order dated 29.09.2014 of Hon'ble High Court as Exhibit-WW1/4, Copy of retrenchment order dated 28.11.2003 of Roshan Lal as Exhibit-WW1/5, Copy of letter dated 17.12.2004 as Exhibit-WW1/6 and copy of order dated 29.10.2003 as Mark-A, Copy of letter dated 06.08.2004 as Mark-B, Copy of order dated 16.09.2004 as Mark-C, Copy of letter dated 11.10.2004 as Mark-D, Copy of termination order dated 19.11.2004 as Mark-E and Mark-F, Copy of demand notice dated 07.12.2015 as Mark-G, Copy of conciliation failure report 31.08.2016 as Mark-H. Copy of letter dated 11.01.2001 as Mark-I, Copy of letters dated 12.04.2002 as Mark-J, letter

dated 30.05.2002 as Mark-K and letter dated 17.06.2002 as Mark-L, Copy of the instruction dated 24.04.1986 as Mark-M, Copy of the letter dated 17.06.1992 as Mark-N, Copy of the order dated 13.07.1995 as Mark-O, order dated 10.07.1997 as Mark-P, Order dated 02.04.1998 as Mark-Q, List of service/employees as Mark-R, Letter dated 23.06.2004 as Mark-S, Copy of letter dated 07.05.2004 as Mark-T.

12. The workers' union examined WW2 Rajesh Kumar - Junior Assistant, PUNSEED, Mohali, who brought into evidence letter dated 15.05.2019 *vide* Exhibit 'WW2/1'; the copy of proceedings of minutes of 167th Meeting dated 15.10.2002 *vide* Exhibit 'WW2/2'; copy of newspaper publication relating to retrenchment to employees of PLDRC *vide* Exhibit 'WW3/3'. The workers' union examined WW3 Iqbal Singh - Clerk-cum-Computer Operator, PNO-11157, who brought the summoned record and brought into evidence the documents i.e. letter dated 19.11.2004 *vide* Exhibit 'WW3/1' (earlier Mark 'E') and list of terminated employees *vide* Exhibit 'WW3/2' (earlier Mark 'F'). The workers' union examined WW4 Darshan Singh - Clerk, PLDRC, who tendered his affidavit Exhibit 'WW2/A' along with documents i.e. copy of his appointment letter dated 02.06.1980 *vide* Exhibit 'WW2/1'; copy of letter dated 28.11.2002 *vide* Exhibit 'WW2/2'; copy of letter No.PLDRC.E.IV-03 dated 01.09.2003 regarding information under the ID Act *vide* Exhibit 'WW2/3'; copy of order dated 29.10.2003 issued by Secretary, Department of Labour & Employment, Punjab *vide* Exhibit 'WW1/3' (already brought into evidence by WW1); copy of order dated 06.08.2004 issued by the Punjab Government, Department of Agriculture whereby it was ordered that PLDRC / management No.3 be amalgamated with PAIC / management No. 5 *vide* Exhibit 'WW2/4'; copy of order dated 15.09.2004 passed by PAIC directing the deponent Darshan Singh to join duty with District Manager, PAIC, Mukatsar *vide* Exhibit 'WW2/5'; his joining report with affidavit on 21.09.2004 *vide* Exhibit 'WW2/6'; copy of letter dated 07.12.2007 regarding supply of documents in reply to RTI by PAIC *vide* Exhibit 'WW2/7'; copy of agenda item No.174.7 along with details of agreement *vide* Exhibit 'WW2/8' and 'WW2/9'; copy of resolution and agenda item No.175.8 *vide* Exhibit 'WW2/10'; copy of order dated 19.11.2004 *vide* which the management was terminated the duties of 189 employees with immediate effect and they were relieved from duties w.e.f. 19.11.2004 *vide* Exhibit 'WW1/9' (already brought into evidence by WW1). On 04.02.2020 Shri Roshan Lal - President of workers' union closed the evidence on behalf of the workers' union.

13. On the other hand, management No.3 examined MW1 Rajesh Kumar - Junior Assistant, Punjab State Seeds Corporation Limited (PUNSEED), Kheti Bhawan, Phase - VI, S.A.S. Nagar Mohali, who tendered his affidavit Exhibit 'MW1/A' along with authority letter dated 30.06.2020 *vide* Exhibit 'MW1/1'. Management No.4 examined MW2 Ms. Satwinder Gill - Warehouse Manager, PSWC, Sector 17-B, Chandigarh, who tendered her affidavit Exhibit 'MW2/A' along with documents i.e. orders dated 20.04.2001, 05.03.2001, 20.04.2001, 05.03.2001, 20.04.2001 whereby Shri Anaib Singh - Clerk, Shri Harinder Pal Singh - Senior Clerk, Shri Teja Singh - Junior Assistant, Shri Brij Lal - Senior Clerk, Shri Mahipal Singh - Junior Assistant were taken on deputation *vide* Exhibit 'R4/1'; order dated 04.12.2003 whereby on operation of letter dated 28.11.2003, the employees of deputation were relieved from their services *vide* Exhibit 'R4/2'. The management No.5 examined MW3 Chetan Kaushik - Senior Manager HR, Punjab Agro Industries Corporation Limited (PAIC), who tendered his affidavit Exhibit 'MW3/A' along with documents i.e. copy of authorization letter in his favour *vide* Exhibit 'D5/1' (also numbered as 'MW3/1'; copy of termination order dated 19.11.2004 *vide* Exhibit 'D5/2' (also numbered as 'MW3/2'). Management No. 5 examined MW4 Nirmal Singh - Assistant Manager (Accounts), Punjab Agro Industries Corporation Limited, Chandigarh, who brought into evidence summons records regarding salary of the workers' union *vide* Exhibit 'MW4/1'. On 01.06.2021 Ms. Anjali Sharma - Senior Assistant, office of Additional Chief Secretary (Labour), Government of Punjab, Punjab Civil Secretariat, Chandigarh got recorded her statement without oath that the summoned record is not available with the Labour Branch. Memo No.1/32/2002-4LABII(PF)/652 dated 11.05.2021 issued in this regard by Government of Punjab, Department of Labour, Labour Branch is Mark 'S1'. On 15.04.2021, learned representative for management No.3 closed the evidence on behalf of management No. 3. On 30.08.2022



learned representative for management No. 4 closed evidence on behalf of management No. 4. On 31.08.2022 learned representative for management No. 5 closed evidence on behalf of management No.5.

14. I have heard the arguments of learned representatives for the parties and have perused the judicial file. My issue-wise findings are as below :—

**Issue No.1 :**

15. Onus to prove this issue is on the workers' union / workmen.

16. Under this issue workers' union examined WW1 Roshan Lal, President of Workers' Union, who *vide* his affidavit Exhibit 'WW1' deposed the averments of statement of claim in toto and supported his oral version with documents Exhibit 'WW1/X', 'WW1/1' to 'WW1/6' and Mark 'A' to Mark 'T'.

17. For corroboration learned representative for the workers' union referred the testimony of WW2 Rajesh Kumar - Junior Assistant, PUNSEED, Mohali, who deposed that the Managing Director of PUNSEED has been given additional charge of PLDRC and he is looking after the affairs of PLDRC. He has been deputed to depose in this case. He was asked to bring documents mentioned in their letter dated 15.05.2019, which is Exhibit 'WW2/1' and out of documents mentioned therein, he has only minutes of proceedings of 167th Meeting dated 15.10.2002. He has seen the typed copy of proceedings of minutes in the Court file which is Exhibit 'WW2/2'. The original of Exhibit 'WW2/2' was produced during recording his testimony which was seen and returned. WW2 further deposed that except the above letter Exhibit 'WW2/2', they have no other original record in their possession so he cannot produce the same. The PLDRC issued a publication in various newspapers to retrenched employees of PLDRC to return the original official record and copy of publication is Exhibit 'WW3/1'.

18. Learned representative for the workers' union referred the testimony of WW3 Iqbal Singh, who deposed that he has brought the summoned record. He has seen the letter dated 19.11.2004 Mark 'E' and list of terminated employees Mark 'F'. He has brought the original letter dated 19.11.2004. He has seen the mark documents which are Exhibit 'WW3/1' and Exhibit 'WW3/2'.

19. Learned representative for the workers' union referred the testimony of WW4 Darshan Singh, who *vide* his affidavit Exhibit 'WW2/A' deposed to the similar effect as deposed by WW1 Roshan Lal *vide* his affidavit Exhibit 'WW1/A'. WW4 Darshan Singh supported his oral versions with documents Exhibit 'WW2/1' to 'WW2/10'.

20. On the other hand, the management No.3 (PLDRC) examined MW1 Rajesh Kumar - Junior Assistant, PUNSEED Mohali, who *vide* his affidavit Exhibit 'MW1/A' deposed all the contents of written statement filed by management No. 3. MW1 supported his oral version with documents Exhibit 'MW1/1'.

21. Management No.4 (PSWC) examined MW2 Ms. Satwinder Gill - Warehouse Manager, PSWC, Chandigarh, who *vide* her affidavit Exhibit 'MW2/A' deposed the entire contents of written statement filed by management No. 4.

22. Management No. 5 (PAIC) examined MW3 Chetan Kaushik - Senior Manager (HR), PAIC, Chandigarh who *vide* his affidavit Exhibit 'MW3/A' deposed the entire contents of the written statement filed by management No. 5. MW3 supported his oral version with documents Exhibit 'D5-1' and 'D5-2'.

23. The management No.5 also examined MW4 Nirmal Singh - Assistant Manager (Accounts), PAIC, Chandigarh, who deposed that he has brought the summoned record regarding the salary of workers of the union. Copy of which is Exhibit 'MW4/1'.

24. The present statement of claim has been filed by 91 retrenched workmen of PLDRC through the workers' union, Ludhiana unit, through its President Roshan Lal S/o Amin Chand. The names of 91 retrenched workmen of PLDRC are mentioned as below :—

Sr. No.	Name of Petitioner	Destination	Date of Joining
1.	Rohan Lal S/o Sh. Amin Chand	Sr. Mech.	01.01.1980
2.	Darshan Singh S/o Sh. Kehar Singh	Jr. Mech	04.01.1980
3.	Jarnail Singh S/o Sh. Sewa Singh	Jr. Mech.	24.04.1985
4.	Gurdip Singh S/o Sh. Bhagat Singh	Buldozer Operator	
5.	Kartara Ram S/o Sh. Bishan Dass	Jr. Operator cum Helper	04.01.1980
6.	Megh Baran S/o Sh. Ram Kishan	Jr. Operator cum Helper	22.02.1978
7.	Davinder Singh S/o Sh. Raghbir Singh	Jr. Operator cum Helper	23.02.1978
8.	Joginder Ram S/o Sh. Gian Chand	Jr. Mech.	26.04.1985
9.	Rajinder Singh S/o Sh. Swarn Singh	Jr. Operator cum Helper	20.02.1978
10.	Chaman Lal S/o Sh. Sohan Lal	Car Driver	05/1978
11.	Satpal S/o Sh. Chain Singh	Car Driver	22.02.1978
12.	Sandal Singh S/o Sh. Sadhu Singh	Jr. Operator cum Helper	01.01.1980
13.	Tarsem Singh S/o Sh. Rakha Ram	Buldozer Operator	20.07.1978
14.	Roop Chand S/o Sh. Hari Chand	Jr. Mech.	06.02.1980
15.	Acchharwant Singh S/o Sh. Hans Raj	Tractor-cum-Tubewall Operator	17.09.1975
16.	Amrik Singh S/o Sh. Joginder Singh	Jr. Mech.	02.01.1980
17.	Subhash Chander S/o Sh. Raghbir Chand	Jr. Mech.	22.04.1985
18.	Roshan Lal S/o Sh. Roda Ram	Jr. Operator-cum-Helper	20.03.1978
19.	Upinder Singh S/o Sh. Baldev Singh	Buldozer Operator	01.07.1978
20.	Gurdev Singh S/o Sh. Bawa Singh	Buldozer Operator	24.02.1978
21.	Baljinder Kaur D/o Sh. Hardial Singh	Sr. Clerk	25.04.1985
22.	Surmukh Singh S/o Sh. Pritam Singh	Sr. Clerk	16.05.1978
23.	Balbair Singh S/o Sh. Gurbax Singh	Sr. Mech. (Retd.)	01.01.1980
24.	Ranbir Singh S/o Sh. Tungal Singh	Sr. Assstt. (S&S)	21.11.1978
25.	Jasbir Singh S/o Sh. Mohinder Singh	Jr. Operator -cum-Helper	01.01.1980
26.	Rajinder Singh S/o Sh. Gurdial Singh	Jr. Operator -cum-Helper	01.01.1980
27.	Tara Chand S/o Sh. Des Raj	Jr. Operator -cum-Helper	01.01.1980
28.	Gurdeep Singh S/o Sh. Balwant Singh	Jr. Assistant	07.07.1979
29.	Gurmit Singh S/o Sh. Gulzar Singh	Jr. Operator-cum-Helper	01.02.1980
30.	Pall Singh S/o Sh. Tara Singh	Peon	19.04.1982
31.	Joginder Singh S/o Sh. Bachan Singh	Beldar	10.07.1979
32.	Dilbag Singh S/o Sh. Jagiri Singh	Peon	27.05.1987

Sr. No.	Name of Petitioner	Destination	Date of Joining
33.	Gurkirat Singh S/o Sh. Gurdial Singh	Jr. Mech.	01.01.1980
34.	Hansraj S/o Sh. Bhajan Singh	Peon	15.05.1979
35.	Jasvir Singh S/o Sh. Bhag Singh	Sr. Asstt. (A)	10.07.1979
36.	Nirmal Singh S/o Sh. Prem Singh	Sr. Mech.	26.09.1978
37.	Om Parkash S/o Sh. Amin Chand	Sr. Asstt.(A)	10.07.1979
38.	Manjit Singh S/o Sh. Gurmail Singh	Bulbozer Operator	28.12.1978
39.	Jaila S/o Sh. Khushi Mohamad	Tractor-cum-Tubewell Operator	19.06.1982
40.	Gurbax Singh S/o Sh. Malkhi Ram	Jr. Operator-cum-Helper	20.02.1978
41.	Krishan lal S/o Sh. Telu Ram	Welder	29.04.1978
42.	Sat Kartar S/o Sh. Dilbag Singh	Jr. Operator cum Helper	01.01.1980
43.	Dalbir Singh S/o Sh. Ajaib Singh	Tractor-cum-Tubewell Operator	21.10.1987
44.	Baldev Singh S/o Sh. Gurdas Ram	Jr. Operator cum Helper	05.01.1980
45.	Arjun Singh S/o Sh. Onkar Singh	Jr. Operator cum Helper	20.02.1978
46.	Amar Nath S/o Sh. Lakshri Ram	Auto Electrician	16.05.1978
47.	Dal Bahdur S/o Sh. Bal Bahadur	Chowkidar	14.11.1979
48.	Jas Bahadur S/o Sh. Dalbir Singh	Jr. Operator cum Helper	24.02.1978
49.	Charanjit Singh S/o Sh. Shiv Ram	Beldar	25.08.1987
50.	Om Parkash Arora S/o Sh. Data Ram	SA (A)	10.01.1978
51.	Balwinder Singh S/o Sh. Avtar Singh	Auto Electrician	22.01.1980
52.	Randhir Singh S/o Sh. Joginder Singh	Tractor-cum Tubewell Operator	01.01.1980
53.	Kala Singh S/o Sh. Pritam Singh	Beldar	10.07.1979
54.	Ravinder Singh Dhillon S/o Sh. Maghar Singh	Sr. Asstt.	11.07.1979
55.	Rakesh Kumar S/o Sh. Banta Singh	Peon-cum Chowkidar	21.10.1981
56.	Teja Singh Mann S/o Sh. Banta Singh	Jr. Asstt.	06.07.1979
57.	Mahipal Singh S/o Sh. Chandan Singh	Jr. Asstt.	27.09.1977
58.	Sukhdarshan Singh Kaushal S/o Sh. Ajit Singh	Jr. Asstt.	02.07.1979
59.	Harkarnail Singh S/o Sh. Har Bhajan Singh	Jr. Asstt.	06.07.1979
60.	Amarjit Singh S/o Sh. Mitt Singh	Sr. Asstt.	03.10.1978
61.	Kulwant Singh S/o Sh. Sohan Singh	Jr. Asstt. (S&S)	02.07.1979
62.	Naib Singh S/o Sh. Sant Ram	Clerk	21.03.1990\
63.	Joginder Singh S/o Sh. Dana Singh	Sr. Asstt. (Acctt.)	17.09.1985
64.	Kashmir Singh S/o Sh. Boota Singh	Jr. Asstt. (S&S)	29.06.1969
65.	Avtar Singh S/o Sh. Dal Singh	Jr. Asstt. (S&S)	07.07.1979



<b>Sr. No.</b>	<b>Name of Petitioner</b>	<b>Destination</b>	<b>Date of Joining</b>
66.	Harinderpal Singh S/o Sh. Pritam Singh	Clerk	18.04.1988
67.	Brij Lal S/o Sh. Dhanna Ram	Clerk	25.09.1989
68.	Vishnu Singh S/o Sh. Roop Singh	Jr. Asstt.	13.07.1981
69.	Banarsi Dass S/o Sh. Sampuran Chand	Sr. Asstt. (Acctt.)	03.10.1978
70.	Gurdip Singh S/o Sh. Karnail Singh	Jr. Asstt. (S&S)	06.07.1979
71.	Darshan Singh S/o Sh. Hansa Singh	Jr. Asstt.	13.06.1980
72.	Harjit Singh S/o Sh. Dhanna Singh	Jr. Asstt.	28.12.1981
73.	Jagdish Ram S/o Sh. Gobind Ram	Sr. Asstt. (A/Cs)	13.07.1979
74.	Satpal S/o Sh. Mohan Lal	Peon	04.06.1981
75.	Triupta Rani D/o Sh. Sidhu Ram Verma	Jr. Scale Stenographer	02.07.1979
76.	Kamlesh Devi D/o Sh. Amar Chand	Sr. Clerk	22.10.1985
77.	Charanjit Kaur D/o Sh. Darshan Singh	Sr. Clerk	06.02.1989
78.	Gurdial Singh S/o Sh. Rugaram	Jr. Asstt. (S&S)	06.07.1979
79.	Tripta Devi D/o Sh. Hari Dass	Jr. Asstt	19.07.1979
80.	Balwant Singh S/o Sh. Swaran Singh	Sr. Area Supervisor	18.04.1985
81.	Jogiinderpal S/o Sh. Mangat Ram	Jr. Asstt. (S&S)	07.07.1979
82.	Manjit Singh S/o Sh. Rattan Singh	Sr. Area Supervisor	17.04.1985
83.	Harjit Singh S/o Sh. Puran Singh	Sr. Asstt.(Accounts)	18.01.1981
84.	Baldev Singh S/o Sh. Jora Singh	Sr. Area Supervisor	16.03.1981
85.	Gurpal Singh S/o Sh. Dalip Singh	Clerk	07.03.1990
86.	Nirmal Singh S/o Sh. Gurcharan Singh	P.C.C	05.06.1981
87.	Sukhdev Singh S/o Sh. Babu Nath	Jr. Operator cum Helper	01.01.1980
88.	Nirmal Singh S/o Sh. Harjit Singh		19.04.1985
89.	Sham Singh S/o Sh. Kartar Singh	Sr. Asstt. (Accounts)	13.07.1979
90.	Sadha Singh S/o Sh. Sohan Singh	Peon	18.12.1980
91.	Rashpal Singh S/o Sh. Arjun Singh	Sr. Area Supervisor	19.04.1985

25. Learned representative for the workers' union informed by filing a list dated 29.07.2022 that out of above 91 retrenched workmen, the following 15 workmen have already died. The names of the said workmen , who are informed as dead along with the date of their death, as per the information provided by learned representative for the workers' union are mentioned as below :—

<b>Sr. No.</b>	<b>Sr. No. in Ex. WW1/1</b>	<b>Name of Workman</b>	<b>Father;s Name (S/Shri)</b>	<b>Date of Death</b>
1.	3	Jarnail Singh	Sewa Singh	23.11.2021
2.	5	Kartara Ram	Bishan Dass	05.11.2015
3.	9	Rajinder Singh	Swarn Singh	15.10.2018
4.	15	Accchharwant Singh	Hans Raj	05.08.2011
5.	17	Subhash Chander	Raghbir Chand	12.12.2019

6.	20	Gurdev Singh	Bawa Singh	25.08.2013
7.	21	Baljinder Singh	Hardial Singh	15.11.2020
8.	25	Jasbir Singh	Mohinder Singh	15.10.2021
9.	31	Joginder Singh	Bachan Singh	23.11.2018
10.	44	Baldev Singh	Gurdas Ram	10.08.2018
11.	52	Randhir Singh	Joginder Singh	08.11.2007
12.	69	Banarsi Dass	Sampuran Chand	23.02.2020
13.	72	Harjit Singh	Dhanna Singh	28.07.2018
14.	91	Rashpal Singh	Arjun Singh	14.01.2007
15.	55	Rakesh Kumar	Sat Parkash	23.01.2020

The workers' union did not place on record any copy of certificate of death of any of the above said 15 workmen reported as dead.

26. From the oral as well documentary evidence led by the parties, it comes out that the Board of Directors of PLDRC vide its meeting dated 25.10.2002 / Exhibit 'WW1/2' decided to close down the corporation. The order dated 25.10.2002 / Exhibit 'WW1/2' of Board of Directors was challenged in CWP No.19076 of 2002 titled as Kaka Singh and others Versus State of Punjab, in the Hon'ble High Court of Punjab & Haryana. The Hon'ble High Court vide its order dated 07.08.2013 gave permission to reconsider the decision taken on the closure of PLDRC and issued Directors to take decision on the application moved by PLDRC under Section 25-O of the ID Act and all the affected parties be heard before passing the orders. Accordingly, PLDRC moved an application under Section 25-O of the ID Act. The Secretary (Labour & Employment) to Government of Punjab, U.T. Chandigarh vide its order dated 29.10.2003 / Exhibit 'X' gave approval to the closure of PLDRC under Section 25-O of the ID Act. The relevant portion of order dated 29.10.2003 / Exhibit 'X' is reproduced as below :—

*"I am constrained to accept the application of management of PLDRC and allow its closure w.e.f. 30.11.2003. However, all the employees of the corporation will be paid their salaries and other retrenchment benefits under the ID Act within a period of six months i.e. on or before 31.05.2004."*

27. Vide order dated 28.11.2003, the workman were retrenched. The retrenchment order of one of the workmen namely Roshan Lal - Senior Mechanic is Exhibit 'WW1/5'. Paragraphs No. 3 and 4 of Exhibit 'WW1/5' are reproduced as below :—

*"3. As per the legal requirements of Industrial Disputes Act, 1947 (Act No.14 of 1947), an application under Section 25(O) of the aforesaid Act was made to Secretary, Labour and Employment, Government of Punjab. You are hereby informed that in view of the permission having been granted by the Principal Secretary, Labour and Employment, Government of Punjab, vide his letter No.1/32/2002-4-Lab.II/4349-53 dated 31.10.2003 to close down the corporation w.e.f. 30.11.2003 under the relevant provisions of the Industrial Disputes Act, 1947, you services stand retrenched w.e.f. 30.11.2003 afternoon.*

*4. The retrenchment compensation and unpaid salaries under Section 25-O of the Industrial Disputes Act, 1947 shall be paid to you on or before 31.05.2004, as per orders of Principal Secretary, Labour and Employment."*

28. On 13.12.2003 PLDRC workers' union filed review application against the retrenchment order dated 28.11.2003 / 'WW1/5'. During the pendency of review application, State of Punjab took a decision vide letter dated 06.08.2004 Exhibit 'Y' that PLDRC would be amalgamated by PAIC. After order dated 06.08.2004 / Exhibit 'PY' there was no retrenchment in existence. On the basis of amalgamation order dated 06.08.2004 / Exhibit 'PY' the review application was disposed off having become infructuous vide order dated 16.09.2004 / Exhibit 'Z'. The Secretary Agriculture, Department of Agriculture, Government of Punjab sent a letter dated 11.10.2004 / Exhibit 'ZA' to AG office regarding amalgamation. In this letter it was mentioned that no retrenchment now exists. Relevant portion of Exhibit 'ZA' is reproduced below :—

*"The State Government have decided in principle to amalgamate of Punjab Land Development & Reclamation Corp. Ltd. with Punjab Agro Industries Corp. Ltd. Instruction to this effect have been issued vide letter No.20/3/01-Agr.II(8)/3091 dated 06.08.2004. Final amalgamation will take place after completion of necessary legal formalities. Hence, no retrenchment now exists and the writ become infructuous. Hon'ble Court may be requested to dispose off the writ petition."*

Through Exhibit 'Z' and 'ZA' Government of Punjab and all its concerned department admitted that there was no retrenchment into existence. In this regard, MW1 Rajesh Kumar in his cross-examination stated that first application for closure of the PLDRC was moved in the year 2002. It was dismissed with liberty to file fresh one. Second one was filed in the year 2003. It was accepted on 29.10.2003. As per this order dated 29.10.2003 / Exhibit 'PX' provision 25-O of ID Act was to be followed in strict sense. Amalgamation order / letter was issued on 06.08.2004. MW1 admitted as correct that the Department of Agriculture of Punjab had written a letter dated 11.10.2004 / Exhibit 'ZA' to the Advocate General Punjab to make statement before the Hon'ble High Court that since there is no retrenchment now exists and the employees are being adjusted in Punjab Agro in amalgamation scheme. MW1 Rajesh Kumar admitted as correct that the review application filed by the workmen union against retrenchment order dated 29.10.2003 was declared infructuous vide order dated 19.09.2004 / Exhibit 'Z' on the statement of PLDRC that the employees are being adjusted in Punjab Agro (management No.5) with all its assets and liabilities. MW1 admitted as correct that all the workmen were adjusted in Punjab Agro on the basis of amalgamation order dated 16.08.2004. MW1 admitted as correct that adjustment with Punjab Agro was on the basis of proceedings of amalgamation on the Board of Directors of both the corporations.

29. MW3 Chetan Kaushik - Senior Manager HR, PAIC when put to cross-examination stated that he has been seen letter dated 11.10.2004 Exhibit 'ZA'. MW3 admitted as correct that in the letter Exhibit 'ZA' it is mentioned that no retrenchment now exists. MW3 admitted as correct that in view of letter Exhibit 'Z' dated 26.09.2004 the workman withdrawn their application filed to review the order of closure passed under Section 25-O of the ID Act dated 29.10.2003, in view of the amalgamation and adjustment of the workman with Punjab Agro, management No. 5.

30. The workmen joined PAIC vide orders dated 15.09.2004. Appointment letter dated 15.09.2004, issued by Senior Manager (P) for Managing Director, Punjab Agro Industries Corporation Limited, of one of the workman Shri Darshan Singh S/o Shri Hansa Singh is Exhibit 'WW2/5' and his joining report dated 21.09.2004 along with his affidavit dated 21.09.2004 is Exhibit 'WW2/6'. Appointment letter dated 15.09.2004, issued by Senior Manager (P) for Managing Director, Punjab Agro Industries Corporation Limited, of one of the workman Shri Roshan Lal is Exhibit 'WW1/5'.

31. MW1 Rajesh Kumar in his cross-examination admitted as correct that all the workmen were adjusted in the Punjab Agro on the basis of amalgamation order dated 16.08.2004. MW1 admitted as correct that the Punjab Agro issued appointment dated 15.09.2004 / Exhibit 'WW1/5' to all the members of the union.



32. MW3 Chetan Kaushik in his cross-examination stated that as amalgamation will take long time during that process, so Punjab Agro issue appointment letters. Copy of appointment letter issued in favour of Shri Darshan Singh S/o Shri Hansa Singh is Exhibit 'WW2/5' issued for six months on consolidated salary on contract basis.

33. As per appointment letters i.e. 'WW1/5' and 'WW2/5' PAIC was duty bound to give one month prior notice before termination. The condition No.4 of appointment letter dated 15.09.2004 is reproduced as below :—

*"4. Your services are liable to be terminated any time during the contract period by giving one month's notice.*

34. MW1 Rajesh Kumar in his cross-examination admitted as correct that in the appointment order dated 15.09.2004 / Exhibit 'WW1/5' it is mentioned that services can be terminated by giving one month notice. MW3 Chetan Sharma in his cross-examination stated that as per Exhibit 'WW2/5' Punjab Agro Industries was duty bound to give one month notice before termination of contract during the period of contract.

35. MW1 Rajesh Kumar in his cross-examination stated that all the workmen were asked to submit their undertaking by way of affidavit which they submitted before their joining. He has mentioned that conditions of said undertaking in para 12 of his affidavit Exhibit 'MW1/A' tendered in his evidence. In para 12 the wording of proforma affidavit / undertaking to be furnished by the retrenched employee to management No. 5 is mentioned as under :—

- "1. I have not earned any income / salary from any of the employer after my retrenchment till my joining PAIC.*
- 2. I will not claim my seniority related to my previous services in the corporation from where I was retrenched.*
- 3. I will not claim any benefit for my retrenchment period. However, the period will be treated as 'leave of kind due'.*
- 4. That the payment of my previous dues, if any, will be finalized by PAIC or in installment, if any.*
- 5. That I shall withdraw all court cases pertaining to my adjustment / employment instituted in Punjab & Haryana High Court or any other Court at my joining.*
- 6. I shall also abide by the terms and conditions settled, rules and regulations, on which the merger of corporation in PAIC will be taken."*

36. There is no dispute with regard to the fact that when the retrenched employees of PLDRC, on the basis of appointment letter dated 15.09.2004, joined with PAIC, the said employees withdrawn all their pending cases from the Hon'ble High Court and furnished affidavit as per the conditions above.

37. The Government vide letter / Exhibit 'WW3/1' order bearing Memo No.20/3/01-Agr.II(8)4608 dated 19.11.2004, reference: State Government Memo No.20/3/01-Agr.II(8) dated 06.08.2004, withdrawn the amalgamation scheme dated 06.08.2004 / Exhibit 'Y'. The amalgamation scheme dated 06.08.2004 is Exhibit as Exhibit 'Y' as well as Exhibit 'WW2/4'. The said letter Exhibit 'WW3/1' is addressed from Under Secretary, Agriculture (C) to the Managing Director, PLDRC, Chandigarh, Managing Director, PAIC Limited, Chandigarh and Managing Director, PAFC Ltd. In the said letter Exhibit 'WW3/A' it is mentioned that the letter under reference issued regarding amalgamation of Punjab Land Development & Reclamation Corporation Ltd. with Punjab Agro Industries Corporation is hereby withdrawn with immediate effect.

38. In view of the withdrawal of the amalgamation scheme, PAIC terminated / dispense with the services of the retrenched employee of PLDRC, who joined with their department on the basis of amalgamation

scheme and on the basis of appointment letter dated 15.09.2004, without issuing one month prior notice which was one of the condition of the appointment letter dated 05.09.2004. Vide office order dated 19.11.2004 passed by Shri Kripa Shankar Saroj - Additional Managing Director, Punjab Agro Industries Corporation Ltd., Exhibit 'WW3/2', consequent upon Punjab Government Memo No. No.20/3/01-Agr.II(8)4608 dated 19.11.2004 vide which earlier instructions issued vide letter No.20/3/01-Agr.II(8) dated 06.08.2004 regarding amalgamation of PLDRC and PAIC stands withdrawn today. Keeping in view the above instructions, the contractual appointment of the following PLDRC employees are hereby dispense with immediate effect and thereby relieved from their duties with effect from 19th November, 2004 (A.N.). The office order contains the names of 189 employees, whose services were dispensed w.e.f. 19.11.2004 in view of office order Exhibit 'WW3/2'.

39. Likewise vide letter dated 04.12.2013 Shri Ashok Kumar Singla, PCS, Managing Director, Punjab State Warehousing Corporation issued the office order to the effect that consequent upon the decision of the retrenchment of following employees w.e.f. 30.11.2003 (A.N.) who are on deputation with PSWC, conveyed by the Punjab Land Development & Reclamation Corporation Ltd., Chandigarh i.e. their parent department vide letter No.PLDRC.E.IV-03/5649 dated 28.11.2003 and following their terms and conditions of deputation with PSWC, they are relieved from their service of the corporation in the afternoon of 30.11.2003. The office order dated 04.12.2003 incorporates the list of 16 employees who were relieved from services.

40. MW1 Rajesh Kumar in his cross-examination stated that the order of termination dated 19.11.2004 was passed by Punjab Agro. MW1 admitted as correct that order of Government for withdrawal of amalgamation proceedings was also issued on the same date 19.11.2004. He has not seen any notice issued to any of the employees of PLDRC before their termination on 19.11.2004 nor any note was issued by PLDRC for their retrenchment. MW3 Chetan Kaushik in his cross-examination stated that termination order of workmen of workers' union was issued on 19.11.2004 because the Punjab Government order dated 19.11.2004 had withdrawn earlier orders of amalgamation dated 06.08.2004. As per record, no notice was issued to any workman or worker before passing of order of termination of service of the workman on 19.11.2004. MW3 in his cross-examination admitted as correct that while issuing order dated 19.11.2004 withdrawing the amalgamation order dated 06.08.2004, the Punjab Government did not issue any order for termination of services of the worker of the union. MW2 Satwinder Gill in her cross-examination stated that no notice was given to the said workman before passing the order relieving by their corporation.

41. Learned representative for the worker's union contended that the termination of services with immediate effect and without issuing one month's prior notice which is one of the mandatory condition of the appointment letter dated 15.09.2004, is in violation to the principles of natural justice. Thus, the retrenchment order dated 28.11.2003 passed by PLDRC; declaration of closure of PLDRC vide order dated 29.10.2003; relieving order dated 04.12.2003 passed by PSWCL and termination order dated 19.11.2004 passed by PAIC be set aside being illegal and the workmen may be allowed to join their duty with further directions to give full back wages along with interest as well as all the consequential benefits.

42. On the other hand, learned representatives for the managements contended that the orders under challenge are legal and valid being passed by the appropriate Government and the appropriate authority as per the Government policy decision dated 13.03.1995 reiterated on 17.05.2002.

43. In view of the discussion made above, to my opinion the Government of Punjab as well within its right to declare closure of PLDRC vide order dated 29.10.2003. So far as the retrenchment order dated 28.11.2003 passed by PLDRC is concerned, the same become insignificant and infructuous when the Government of Punjab issued amalgamation scheme vide order dated 06.08.2004 / Exhibit 'Y' / Exhibit 'WW2/4' because with the amalgamation scheme retrenched employees were ordered to be merged with the department of PAIC. Under the amalgamation scheme dated 06.08.2004 / Exhibit 'WW2/4' the decision was taken with

regard to the retrenched employees and also with regard to the assets and liabilities of PLDRC. The relevant portion of amalgamation order dated 06.08.2004 / Exhibit 'Y' / Exhibit 'WW2/4' is reproduced as below :—

*"After going through the aforesaid proposals of Punjab Agro Industries Corporation Limited and after detailed consideration, the Governor of Punjab is pleased to approve the following :—*

- a) Punjab Land Development & Reclamation Corporation Ltd. be amalgamated with Punjab Agro Industries Corporation Ltd. with all its assets and liabilities including that of its 199 retrenched employees who are to be taken into service by the Punjab Agro Industries Corporation Ltd. as a part of amalgamation plan on 'as is where is' basis.*
- b) Authorities of both the Corporations which shall immediately take all pre-requisite steps under the law for completion of the amalgamation."*

44. It was within the purview of the State Government to withdraw the amalgamation policy but the retrenched employees, who joined with PAIC after compliance of all the necessary formalities, could not be terminated or dispense with from their service without issuing one month's prior notice which was one of the condition of their appointment dated 15.09.2004 / Exhibit 'WW2/5'. The plea taken by the managements that they were bound to dispense with the services of the said employees on account of withdrawal of amalgamation scheme is devoid of merits. The position would have been different in case PAIC with whom PLDRC was merged, had also returned all the benefits derived by PAIC from PLDRC under the amalgamation scheme. PAIC dispense with the services of the employees on the very date of the withdrawal of the amalgamation scheme i.e. on dated 19.11.2004 but till date PAIC has not returned the 1500 acres of land so received by it from PLDRC under the amalgamation scheme. In this regard MW3 Chetan Kaushik - Senior Manager HR, PAIC Ltd. in his cross-examination stated that it was still in process regarding the assets of the PLDRC but he is not sure that the land measuring 1500 acres to be transferred in favour Punjab Agro in view of the amalgamation orders. He cannot say whether the land which was given as per the amalgamation process to Punjab Agro Corporation is in their possession or not. He cannot say whether the corporation is receiving rent from this agriculture land and is using for other purposes of Punjab Agro. Advertisement Exhibit 'MW3/5' has been issued by the Punjab Agro Industries for developed plots for food processing units in MFP, Ludhiana but he cannot say it is regarding the above said 1500 acre land or not. MW3 in his aforesaid statement has not specifically denied the facts put to him in cross-examination. Thus, under the law, the fact which is not specifically denied is deemed to be admitted. MW3 in his cross-examination further stated that part of land which was owned by PLDRC was given to them on lease. The area of land changes year to year. It started from 1000 acres. At present Punjab Agro is having 200 acres allotted by the Government of Punjab. The land which has been put for development plot for food process units in MFP, Ludhiana shown in Exhibit 'MW3/5' is part of the land which was given by the Punjab Government. In this project, land is about 200 acres. Earlier the land was 1000 acres later on it was reduced every year, now it is 200 acres with them on which Mega Food Park is being established. From the aforesaid version of MW3 it is duly proved on record that even after the withdrawal of the amalgamation scheme the PAIC has not returned the landed property, so received by PAIC from PLDRC under the amalgamation scheme. The action of the PAIC vide which they dispense with the services of the employees of PLDRC vide order dated 19.11.2004 / Exhibit 'WW3/2' on account of withdrawal of amalgamation scheme is unjustified, in view of the fact that PAIC did not return the assets / landed property received by it under the amalgamation scheme and till date PAIC is utilizing the property of PLDRC and is deriving the benefits from the same. The PAIC is not justified in its act to interpret the withdrawal of scheme of amalgamation for the retrenched employees of PLDRC in a different manner in comparison to its interpretation regarding the assets / landed property of PLDRC.



45. As far as the policy decision of the Government of Punjab dated 13.03.1995 reiterated on 17.05.2002 is concerned the Government of Punjab was fully conscious of the same while passing the amalgamation order dated 06.08.2004, which is of a subsequent date.

46. The plea taken by learned representative for the managements that the retrenched employees have already received the retrenchment compensation without any protest, does not stand proved because first of all vide letter Exhibit 'WW1/5' the retrenchment compensation and unpaid salary under Section 25-O of the ID Act was to be paid on or before 31.05.2004. As proved from Exhibit 'WW1/6', the payment of the retrenchment compensation was made in November 2004, which was received under protest by the concerned employees without prejudice to his right which may be determined in the Civil Writ Petition No.19076 of 2002 titled as Kaka Singh & Others Versus State of Punjab & Others. There is no evidence to the effect that any of the employee of workers' union was / is gainfully employed after termination.

47. The amalgamation scheme was acted upon by transferring the landed property of PLDRC to PAIC and by issuing the appointment letters dated 15.09.2004 to the retrenchment employee, who joined PAIC in pursuance of said appointment letters. As already discussed above, despite the withdrawal of amalgamation scheme PAIC has retained, is utilizing and deriving benefits out of the landed property transferred to it from PLDRC under the amalgamation scheme but under the garb of withdrawal of amalgamation scheme the services of 91 employees were dispensed with on the very date of withdrawal of amalgamation scheme i.e. 19.11.2004 vide order dated 19.11.2004 / Exhibit 'WW3/2'. Thus, the order Exhibit 'WW3/2' is arbitrary and illegal. Moreover, in the order of withdrawal of amalgamation scheme there was no direction to dispense with the services of the employees who have already joined with PAIC and have already become the employees of PAIC on account of merger. On joining of 91 employees in question, PAIC become their parent department.

48. The Government of Punjab by issuing amalgamation scheme dated 06.08.2004 i.e. Exhibit 'Y' / Exhibit 'WW2/4' has made a promise to the retrenched employees of PLDRC that they will be taken into service by Punjab Agro Industries Corporation Ltd. The Government cannot run away from its promise by virtue of principle of promissory estoppel under Section 115 of the Indian Evidence Act. The principle of estoppel is a rule of evidence incorporated in Section 115 of the Indian Evidence Act, 1872. The Section reads as follow :—

*"When one person has, by his declaration act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceedings between himself and such persons or his representative to deny the truth of that thing."*

49. The promissory estoppel is equitable doctrine. Like all equitable remedies it is discretionary. The doctrine of promissory estoppel is also applicable against the Government. The Government is not exempted from liability to carry out the representation made by it to its future conduct and it cannot on some undefined and undisclosed ground of necessity or expediency failed to carry out its promise made solemnly by it. There is no distinction between private individual and public body so far as doctrine of promissory estoppel is concerned except if the promise on behalf of the Government is unconstitutional. Here in the present case it is not the case of the managements that the amalgamation scheme dated 06.08.2004 / Exhibit 'Y' / Exhibit 'WW2/4' was unconstitutional. When the Government makes a promise knowing or intending that it would be acted upon by the promisee and infact the promisee acting in reliance of it, alters his position, the Government would be held bound by the promise and that promise would be enforceable against the Government at the instance of the promisee, notwithstanding that there is no consideration for promise and promise is not recorded in the form of a formal contract. In the present case, in view of the undertaking in the form letter dated 11.10.2004 / Exhibit 'ZA' that no retrenchment now exists, the workmen altered their position by withdrawing all kind of litigations which was pending on account of the retrenchment order dated 29.10.2003 on account of closure of PLDRC.

50. As far as the objection raised by the management regarding the delay in filing the present reference is concerned, Hon'ble High Court in CWP No.19929/2003 titled as Karam Chand & Others Versus State of Punjab & Others passed the order dated 29.09.2014 / Exhibit 'WW1/4' whereby the writ petition was dismissed as withdrawn to enable the petitioners to raise an industrial dispute with the clarification that the reference sought by the petitioners for raising an industrial dispute would not be rejected on the ground of delay.

51. The objection raised by the managements that the individual employees have not approached this Tribunal is not sustainable because the workers' union is competent to represent the retrenched employee through industrial dispute reference. Moreover, technicalities of cannot be allowed to hamper the justice delivery system.

52. In view of the discussion made above, retrenchment order dated 28.11.2003 / Exhibit 'WW1/5' and order dated 29.10.2003 Exhibit 'WW1/3' are legal and valid. However, the termination order dated 04.12.2003 passed by PSWC and termination order dated 19.11.2004 / Exhibit 'MW3/2' passed by PAIC are illegal, null and void and hereby set aside. Consequently, the 76 employees of the workers' union except 15 employees, who are reported dead are ordered to be reinstated with PAIC from the date of their termination with full back wages and all consequential benefits. The retrenchment compensation already received under protest shall be liable to be adjusted against the due amount. The LRs of the 15 employees reported as dead are also entitled to all the monetary benefits, to which the remaining 76 employees are held entitled, subject to producing before competent authority of PAIC, the certified copy of death certificate issued by the competent authority relating to the concerned employee to PAIC.

53. Accordingly, this issue is partly decided in favour of the workers' union and against the management.

**Issue No. 2 :**

54. Onus to prove this issue is on the management No.3.

55. The objection raised by the management No.3 that this Tribunal has no territorial jurisdiction is not acceptable because the PLDRC Ltd. has already been closed and the Head Office of management No.1, 4 & 5 situates at Chandigarh. Moreover, the impugned order under challenge were passed by the concerned authorities at Chandigarh. Thus, the present reference is well within the territorial jurisdiction of this Tribunal/ Court.

56. Accordingly, this issue is decided against management No.3 and in favour of the workers' union.

**Issue No. 3 :**

57. Onus to prove this issue is on management No.3.

58. This issue has not been pressed during the course of arguments. Consequently, this issue is decided against management No.3 and in favour of the workers' union.

59. In the view of foregoing finding on the issues above, this reference is partly allowed. The termination order dated 04.12.2003 passed by PSWC and termination order dated 19.11.2004 / Exhibit 'MW3/2' passed by PAIC are set aside being illegal, null and void. Consequently, the 76 employees of the workers' union except 15 employees, who are reported dead, are ordered to be reinstated with PAIC from the date of their termination with full back wages and all consequential benefits. The retrenchment compensation already received under protest shall be liable to be adjusted against the due amount. The LRs of the 15 employees reported as dead are also entitled to all the monetary benefits, to which the remaining 76 employees are held entitled,

subject to producing before competent authority of PAIC, the certified copy of death certificate issued by the competent authority relating to the concerned employee to PAIC. The management No. 3 is directed to comply with the award within three months from the date of publication of the award in Government Gazette failing which the management is liable to pay simple interest at the rate 6% per annum on the due amount till actual realization. Appropriate Government be informed. Copy of this award also be sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

Dated 31st August, 2022.

(Sd.) . . . ,  
(JAGDEEP KAUR VIRK),  
Presiding Officer,  
Industrial Tribunal & Labour Court,  
Union Territory, Chandigarh.  
UID No. PB0152.

Secretary Labour,  
Chandigarh Administration.

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